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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,657	05/25/2001	Craig S. Skinner	035451-0130 (3632.Palm)	4531

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EXAMINER	
FERGUSON, KEITH	
ART UNIT	**PAPER NUMBER**
2683	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/865,657	**Applicant(s)** SKINNER ET AL.	
	Examiner Keith T. Ferguson	**Art Unit** 2683	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-20*.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

KEITH FERGUSON
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Argument: Regarding claim 1, applicant alleges that George et al. do not disclose a handheld computer system which has the function of a radio frequency transceiver built into the handheld computer and which includes circuitry such that the transceiver is configured to send and receive data while the battery charge is below the low level and the recharger provides charge to the rechargeable battery.

Explanation: Examiner agree with applicant that George et al. does not explicit disclose a handheld computer. However, George teaches a hand held transceiver that has the function of a radio frequency transceiver such that the transceiver is configured to send and receive data while a recharger provides charge to a rechargeable battery (col. 1 lines 40-67). Miller teaches a data phone (hand held computer with transceiver). The Soini et al. reference teaches a multi-service mobile station (computer) used for data, notebook, PDA, mobile, and calendar services (paragraph 0001 lines 1-11 and paragraph 0014 lines 1-3) which a transceiver configured to send and receive data while the battery charge is below the low level (inherent, since a warning is given to the user through the display when the battery drops below a pre-limit value 1warning 32), if the voltage over the battery drops further below preset limit value 2warning 33, the multi-service mobile station cuts off power supply to the telephone module which are connected with the transmission and reception of messages by radio, as taught in paragraph 0040 lines 1-9 and since the data traffic is not cut off until the battery level drops below the preset limit value, power off 35, taught in paragraph 0042 lines 1-5), the battery unable to power the transceiver when the charge is below the low level (paragraph 0040 lines 7-10). The George et al. and Soin et al. reference was used to modify the Miller data phone so that the data phone could to continuous transmit and receive data while the rechargeable battery is recharging, thereby providing continuous power to the transceiver while powering the battery when using internet service.

Argument: Applicant alleges that there is no teaching or motivation to combine George et al., Miller, and Soin et al..

Explanation: Examiner respectfully disagrees, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. It is not necessary that the reference actually suggest, expressly or in so many words the changes or improvements that applicants has made. The test for combine references is what the references as a whole would have suggested to one of ordinary skill in the art. Miller teaches a handheld computer system (portable data phone which provides internet and organizer functions) (fig. 1 number 22 and col. 3 lines 65 through col. 4 line 23), comprising a housing (col. 3 lines 19-24), a display (screen)(fig. 1 number 26), a processor (controller) coupled to the display (screen)(fig. 1 numbers 24 and 26), a rechargeable battery (fig. 1 number 40) configured to power the processor (controller) and the display (screen)(col. 4 lines 24-30), a recharging connector (inherent, as the rechargeable battery is connected to an external power source 52, as taught in col. 4 lines 26-50) in coupled to the rechargeable battery (col. 4 lines 23-50), a recharger (DC power supply, switch, filter, feedback control circuit and feedback sensor) coupled to the recharging connector (col. 4 lines 27-50) which provides charge to the rechargeable battery (col. 4 lines 27-50), and a radio frequency transceiver (fig. 1 number 34) coupled to the processor (fig. 1 numbers 35 and 24 and col. 4 lines 11-14) and powerable by the battery (col. 4 lines 12-30), when the battery has a charge above a predetermined low level (inherent, as the normal operating mode before needing to be charged by charger or need of a replacement of batteries, as taught in col. 4 lines 23-27), and the charger provides charge to the rechargeable battery (col. 4 lines 26-50) and to the transceiver (i.e. the transceiver 34 is connected to the rechargeable battery 40 when connected to the DC supply 52 while the rechargeable battery is being charged)(fig. 1 numbers 34,40 and 52 and col. 6 lines 6-50) and the rechargeable battery can be charged while simultaneously operating the data phone (col. 4 lines 6-30). The Soini et al. reference teaches a multi-service mobile station used for data, notebook, PDA, mobile, and calendar services (paragraph 0001 lines 1-11 and paragraph 0014 lines 1-3) which a transceiver configured to send and receive data while the battery charge is below the low level (inherent, since a warning is given to the user through the display when the battery drops below a pre-limit value 1warning 32), if the voltage over the battery drops further below preset limit value 2warning 33, the multi-service mobile station cuts off power supply to the telephone module which are connected with the transmission and reception of messages by radio, as taught in paragraph 0040 lines 1-9 and since the data traffic is not cut off until the battery level drops below the preset limit value, power off 35, taught in paragraph 0042 lines 1-5), the battery unable to power the transceiver when the charge is below the low level (paragraph 0040 lines 7-10). The George et al. reference teaches an apparatus for recharging a rechargeable battery in a hand held transceiver while maintaining communications capability through the transceiver when the rechargeable battery is unable to power the transceiver (abstract, col. 1 lines 9-18 and col. 1 lines 40-67). The motivation for combining George et al., Miller, and Soin et al. is to modify Miller data phone to continuous transmit and receive data while the rechargeable battery is recharging, thereby providing continuous power to the transceiver while powering the battery when using internet service, as taught by Soini et al. and George et al. .